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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,002	06/15/2001	Dan Shaw	930016-2002	1475

20999 7590 12/15/2005

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EXAMINER	
PIERCE, WILLIAM M	

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/883,002	SHAW ET AL.	
	Examiner	Art Unit	
	William M. Pierce	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 9/13/05.

2a)☒ ~~This action is FINAL.~~ 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-18 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-18 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM M. PIERCE
PRIMARY EXAMINER

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 5-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as set forth in the previous office action.

35 USC 112 requires that the scope of the claim be clear such that one can readily determine its metes and bounds. Antecedent problems as found in claims 5-7, 16 and 17 render the scope of the claim unclear since one cannot determine what is being claimed in combination. Contrary to applicant's perception claims 10-12, 14 and 15 do not recite means plus function limitation under 35 USC 112, sixth paragraph. These claims inferentially and functionally set forth what the apparatus can do or is intended to do and not what it is by positively reciting structure. As such these claims are indefinite and fail to further limit the structure of the apparatus in a previously recited claim (as such are also improper dependent claims).

To the extent that applicant's request the examiner to suggest claim language, it is suggested hat the applicant provide proper antecedent bases for each limitation positively referred to in the claims (as in claims 5-7, 16 and 17) and replace inferential and functional language of intended use with positive recitations that define the structure of the invention being claimed (as in claims 10-12, 14 and 15). It is not incumbent upon the examiner to draft the claims for applicant or provide possible language of what applicant may or may not be attempting to recite in his claims.

Claim Rejections - 35 USC § 103

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berman in view of Kesling as set forth in the previous office action and further in view of Ahn and matters considered old and well known.

Response to Arguments

Applicant's arguments filed 9/13/05 have been fully considered but they are not persuasive.

The amended claims now call for an alphanumeric keypad. Ahn teaches that keypads having alphanumeric as wireless remote control user interface for controlling an apparatus at a separated distance is well known. To have included an alphanumeric keypad on to control the apparatus of Berman would have been obvious in order to allow a user to input information to the control system. Clearly applicant is not the first to use an alphanumeric keypad in a remote control system.

Applicant's invention results in no unexpected results. The elements of the claimed invention are known in the art and are used as they are intended to be used. For example the use of relays using a lower voltage that switch a higher voltage and alphanumeric keypads to input information in a control system. The apparatus of Berman would be expected to open and close automatically from a remote location in response to a user input to a keypad. This is not unexpected. This is applying known technology for its intended purpose.

Berman shows that dividing tennis court using nets such as 44 that are manually drawn is known. Case law (as set forth in the previous office action) supports that automating a manual activity is not a patentable advance. Kesling teaches a control system to automate a manual activity using relays and Ahn teaches the use of alphanumeric keypads. It follows that to have provided a remote control system of Kesling with a keypad would have been obvious to have allowed a person to open and close the curtains 44 of Berman automatically from a distance without having to do so manually. Clearly sufficient motivation to fairly combine the applied art exists to render the claimed invention obvious.

Examiner is not convinced the applicant is the inventor or the use of a keypad or the input of a security code to operate a control system. Well known is the input of a code before one is authorized to use a system. The most notorious security code is the use of "passwords" before a person can operate a computer system. One faced with the problem of unauthorized use of a system would surely consider the use of a keypad to enter a code before a system may be operated as has been well known in the prior art.

With respect to applicants comments pertaining to "common knowledge", the office action states that such is well known and provides specific examples. To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241. This has not been done by applicant. A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice is inadequate. As such the grounds for rejection has not been overcome.

The results of applicant's invention are not unexpected. "Wireless" user interfaces inherently "reduce the amount of wiring necessary" by their name alone. The use of 12 volt system is known to use less power than an all 110 volt system. Applicant's combination of elements bring nothing new to the art.

While applicant engages a conversation pertaining to commercial success, there is no evidence of record of any commercial success. As such, this grounds for secondary consideration is unpersuasive.

With respect to a request for an interview, an interview should be had only when the nature of the case is such that the interview could serve to develop and clarify specific issues and lead to a mutual understanding between the examiner and the applicant, and thereby advance the prosecution of the application. Applicants are asked to show how such will advance the prosecution and what issues will be clarified when making this request.

Conclusion

Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address bill.pierce@USPTO.gov or at telephone number (571) 272-4414.

For **official fax** communications to be officially entered in the application the fax number is (703) 872-9306.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone number is (703) 305-8335.

WILLIAM PIERCE
Primary Examiner